

REMARKS

Claims 1-44 are cancelled. Claims 45-69 are added. Claims 45-69 are pending in the application.

Applicant acknowledges the finality of the restriction requirement and the withdrawal from consideration of claims 1-15, 20-28 and 36-44. For the reasons discussed below, applicant has cancelled claims 1-44 replacing the original claims with a new claim set containing claims 45-69. Applicant respectfully requests consideration of the new set of claims.

Claims 16-19 and 29-35 stand rejected under 35 U.S.C. § 112 for various grounds set forth in the present action. Without admission as to the propriety of the Examiner's rejections, claims 16-19 and 29-35 are cancelled. In light of the Examiner's comments at pages 2-4 of the present action, applicant has added a new set of claims to more clearly set forth and claim the invention. New claims 45-69 do not add "new matter" to the application since each is fully supported by the specification as originally filed. New claims 45-69 are based upon the subject matter of original claims 1-44.

Each of claims 16-19 and 29-35 stand rejected under 35 U.S.C. § 102 and/or 35 U.S.C. § 103 as being unpatentable over one or more of Rose, U.S. Patent No. 5,861,277; Fladung (1993 Plant Molecular Biology 23:749-757); Soper, U.S. Patent No. 5,920,002; Thiele (1999, Plant Physiology 120:73-81) and Dehesh, U.S. Patent No. 5,850,022. As discussed above, without admission as to the propriety of the Examiner's rejections claims 16-19 and 29-35 are cancelled.

New claims 45-69 are believed to be novel and non-obvious over the art of record. Applicant respectfully requests examination of new claims 45-69.

Respectfully submitted,

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